



Setti D. Warren  
Mayor

## CITY OF NEWTON, MASSACHUSETTS


Department of Planning and Development

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Public Hearing Date:	January 10, 2011
Zoning and Planning Action Date:	March 28, 2011
Board of Aldermen Action Date:	April 4, 2011
90-Day Expiration Date:	April 8, 2011

DATE: January 21, 2011

TO: Alderman Marcia T. Johnson, Chairman, and  
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development   
Jennifer Molinsky, Interim Chief Planner for Long Range Planning

RE: **PUBLIC HEARING**  
**#142-09(6): INTERIM DIRECTOR OF PLANNING AND DEVELOPMENT**  
requesting to amend Chapter 30, §30-15(u) and TABLE 1 regarding Floor Area Ratio (FAR) to institute a new method of calculating maximum FAR for single- and two-family structures in residential districts based on a sliding scale tied to lot size and zoning district; to amend § 30-1 definitions of “gross floor area” and “floor area ratio” to include additional building features, accessory structures, and mass below first story; to amend § 30-1 to add definitions of “carport,” “porch,” “enclosed porch,” and “mass below first story;” to delete the reference to §30-15 Table 1 contained in §30-21(c) and replace it with a reference to §30-15(u); to determine a date between six (6) and twelve (12) months from date of passage, that the above amendments will become effective; and to extend the expiration dates of §30-15(u) paragraphs 1, 2, and 3 so they remain in effect until such date that the above amendments become effective.

CC: Board of Aldermen  
Mayor Setti D. Warren  
Planning and Development Board  
John Lojek, Commissioner of Inspectional Services  
Marie Lawlor, Assistant City Solicitor

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This memo addresses a number of questions that are frequently asked about the FAR reform proposed in petition #142-09(6). For a comprehensive description and analysis of the proposals as well as the actual proposed zoning text, please refer to the Planning Department’s memo of January 7, 2011.

## Frequently Asked Questions

1. **What purpose does FAR serve?** Planners' dictionaries define FAR as regulating mass or volume of a building in relation to its lot. In Newton, it is one of several dimensional controls (including frontage, height, setback, open space and lot coverage requirements) that together ensure the provision of open space, preserve space between buildings for sunlight and privacy, and limit volume so that buildings on one property do not reduce neighbors' enjoyment of their property or their property values.

Dimensional requirements are particularly important in denser communities such as Newton; with 1,779 housing units per square mile, Newton has roughly twice the housing density as Wellesley, Needham, and Natick, towns to which Newton is often compared in terms of land use regulations.

2. **Why is the Board considering FAR reform?** Residential FAR was adopted in Newton in 1997 in response to concern about the construction of very large new homes on sites once occupied by smaller housing. Zoning and Planning Committee minutes from the public hearing on April 14, 1997, included "strong expressions of support from many parts of the city for regulation of monster homes" with support for FAR "as a way of controlling the density of development on individual lots." However, after FAR regulations were adopted, concern about overly-large homes continued, as the new residential FAR regulations contained a provision allowing extensive additions to existing homes without regard to FAR. The issue was studied as part of the Zoning Task Force (which met 2006-2008). In 2009, when the Board made FAR applicable to all residences in residential zoning districts, including both new construction and existing homes, the issue of overly large homes was finally addressed, but a new concern arose about FAR limits constraining homeowners who wished to make modest additions to their homes, particularly those on small lots, without a special permit. The FAR Working Group was appointed as a result to study and make recommendations about further FAR reform, and the FAR "bonus" adopted as an interim measure.
3. **What are the main differences between the proposal and the current FAR regulations?** There are two significant changes between the current and proposed FAR regulations. First, under current regulations FAR largely regulates habitable space (though it does include attached garages and excludes some habitable space in basements and attics). In contrast, the proposal seeks to regulate *above-ground mass*, in keeping with the idea that FAR is about the bulk of a building, not whether or not that mass is habitable. Second, the proposal recommends a sliding scale of FAR limits that is tied to lot size, rather than a single FAR limit per zoning district, which is more nuanced and also allows for a slightly higher FAR limit for small properties without expanding FAR capacity on all lots.

4. **What options did the Working Group consider and reject before agreeing to put forth the proposed reform?** Regarding the definition of “gross floor area,” the group considered which building elements should be included in the definition, and how space within them should be counted and calculated. Given that an amended definition of “gross floor area” (GFA) would cause the average house’s actual FAR to rise, and given their initial consideration of the constraints felt by small lots, the group then considered how to adjust the limits. A flat increase was ruled out because it led either to increases in nonconformities or greatly expanded capacity on larger lots, depending on the amount of increase. The group moved to a sliding scale approach and considered various ways of stepping down the scale as well as numerous sets of limits; the final proposed limits were thought to achieve the appropriate balance between expanding capacity for small lots and protecting neighborhoods from overdevelopment. The final proposal also includes a small bonus (.02) for construction on old lots (created before 1954) if the new construction meets new lot standards (those imposed on lots created 1954 and later).
5. **How will the proposal impact small lots, neighborhoods? How much difference will the sliding scale make to small lots?** The proposal would give a modest FAR increase to smaller lots. The Planning Department’s analysis is that the increase would help many homes on small lots to modernize or make a modest expansion (such as a bathroom, mudroom, or enclosed entry, for example), and would not create undue burdens on neighbors. Not all homes on small lots could use the increase in FAR, either because they are already nonconforming or because properties have other zoning constraints (e.g. the lot is already built to maximum lot coverage). Still, the proposal should give modest help to many of Newton’s smaller lots, which are numerous: Newton’s median residential lot size is 9,457 sq. ft., and a quarter of lots are less than 7,000 sq. ft.
6. **How many cases do the Inspectional Services and Planning departments see that relate to FAR?** Every application of a building permit involving an addition or the enclosure of a porch requires calculation of FAR. Commissioner Lojek has estimated that there may be 50 to 100 cases per month where applicants submit FAR calculations. In 2010, there were seven special permit applications where the primary relief sought was for FAR, two of which are still in process.
7. **Had the proposed FAR reform been applied to the recent special permit cases regarding FAR, how would those cases have fared?** The Planning Department conducted additional analysis on this question following the public hearing on January 10<sup>th</sup>. *All but one of the cases approved in the special permit process in 2010 would still need a special permit under the proposal.* The primary reason is that of the seven applications, many were already well over FAR limits under both the current and proposed regulations and/or were requesting additions that put them well over the limit. In cases like these, the Planning Department believes the special permit process is warranted. In one case, the applicant would not have needed a special permit under the proposal because the existing home and its modest addition would have been within the proposed FAR limits, and

because the application involved the removal of an existing detached garage. The FAR calculations for the applications for special permit dating from 2010 are presented in Attachment 1.

8. **If FAR reform is adopted, will existing houses become nonconforming with respect to FAR?** Some houses, particularly those with many of the elements currently exempt from GFA, may lose some development capacity or become nonconforming with respect to FAR; in the latter case, such a house would be considered “lawfully nonconforming.” According to Commissioner Lojek, owners of these houses would not need a special permit to finish any existing space (e.g. basement, attic). Other houses are expected to become conforming with respect to FAR or, if already conforming, to gain additional development capacity.
9. **What design incentives may result from the proposal?** The Working Group did not build any explicit design incentives into its proposal; however, by counting more elements of mass above ground, the FAR regulations may have some design consequences. There will be more incentive to attach garages and there may be some incentive to flatten roofs if the homeowner/builder does not want to put livable space into an attic and does not want the unfinished space counted toward the FAR limit.
10. **How complex are the new calculations the FAR proposal would require?** Establishing the FAR limit for a property will involve either use of an online calculator or calculating the limit by hand, using the formula in the zoning text. One would need to know one’s lot size and zoning district. Calculating GFA will also involve a few more elements than it does at present: applicants would need dimensions of detached structures, basements, and attics. The FAR Working Group and Planning Department do not believe these additional calculations to add significantly to the work already done by a surveyor or engineer for building permits and special permits.

Attachment 1: Special Permit Cases Relating to FAR (applications made in 2010)

Address	Zone	Lot (sf)	Approved		Type of relief	Modification	FAR, old GFA calculation		Old FAR limit		Estimated FAR, new GFA calculation*		New FAR Limit (* for .02 bonus)	Conforming under new Amendment
			#	Date			From	To	30-15: Table 1	With Z-51# bonus	From	To		
23 Howe Rd.	SR2	6,591	247-09	11/16/2009	Ext. N/C Struct-FAR	Repl exist w/ larger 1F	0.41	0.43	0.3	0.35	~0.51	~0.54	0.44	No
22 Walter St.	SR3	4,950	303-09	11/16/2009	Ext. N/C Struct-FAR	Enclose screened porch	0.61	0.63	0.35	0.42	~0.61	~0.63	0.50*	No
1 Billings Pk	SR-2	8,496	15-10	3/15/10	Ext. N/C Struct-FAR	Build attached garage	0.36	0.43	0.3	0.37	~0.45	~0.51	0.43*	No
51 Hillside Ave	SR2	7,160	17-10	3/1/10	Ext. N/C Struct-FAR	2 story add to 1F; 455 sf	0.33	0.39	0.3	0.37	~0.40	~0.42	0.45*	Yes
8 Ridgeway Terr	SR2	5,400	42-10(2)	6/7/2010	Amd 42-10-addl FAR	Same	0.32	0.49	0.3	0.37	~0.37	~0.54	0.47*	No
39 Devonshire Rd	SR2	10,400	75-10	4/20/2010	Ext. N/C Struct + FAR	3 story rear addn to 1F	0.38	0.48	0.3	0.37	~0.40	~0.50	0.39*	No
18 Cochituate Rd	SR2	6,545	177-10	8/9/2010	Ext. N/C Struct-FAR	Enlarge sun rm by 70 sf	0.41	0.42	0.3	0.37	~0.50	~0.51	0.46*	No
95 Fountain St	SR1	11,355	n/a	in process	Ext. N/C Struc, addl FAR	Enlarge kitchen	0.27	0.28	0.25	0.25	~0.39	~0.40	0.28	No
90 Highland	SR2	10,269	n/a	in process	Ext. N/C Struc addl FAR	Create new sunroom	0.34	0.37	0.3	0.35	~0.47	~0.50	0.38	No

\*Calculations of new FAR are approximations based on estimates of likely GFA under the new calculations and not definitive